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SUBJECT: GHANA: AGOA ELIGIBILITY REVIEW UPDATE

REF: SECSTATE 168472

1. PER REFTEL, POST SUBMITS THE FOLLOWING UPDATE ON GHANA'S AGOA ELIGIBILITY:

2. BEGIN TEXT,

TPSC SUBCOMMITTEE ON AGOA IMPLEMENTATION
2004 COUNTRY ELIGIBILITY RECOMMENDATIONS
STATE SUBMISSION

Country: GHANA

Current AGOA Status: Eligible

State recommends continued AGOA eligibility for Ghana.

Country Background Summary: Ghana is a constitutional democracy dominated by a strong presidency. President John Kufuor has governed since taking power democratically in January 2001, succeeding Jerry Rawlings who ruled for 19 years. Ghana's population in 2003 was approximately 20.1 million. 2003 GNI was USD 6.5 billion, and per capita GNI was USD 320. Gold, cocoa, and timber are the traditional sources of export earnings. The Government of Ghana (GoG) is pursuing sound monetary and fiscal policies and completed successful IMF and World Bank reviews in September 2003. It has succeeded in getting the budget under control and has improved transparency and accountability in use of public resources. The GoG is on target for revenue collection through August 2004, but is unlikely to meet expenditure targets due to high oil prices. Maintaining fiscal discipline continues to be its top economic priority. Real GDP growth increased from 4.5 percent in 2002 to 5.2 percent in 2003. The cedi has remained relatively stable, depreciating by 3.5 percent in 2003. Favorable external markets for cocoa and gold in 2003 supported the stability of the cedi and increased foreign exchange reserves. The annual inflation rate has declined from 30 percent in April 2003 to 11.2 percent at the end of May 2004. Ghana reached HIPC completion point in July 2004, paving the way for approximately USD 3.5 billion in debt forgiveness.

Comments on Eligibility Requirements

I. Market-based Economy

A. Major Strengths Identified

Ghana has a market-based economy with few barriers to trade and investment. The GoG has made strides in the structural reform agenda, particularly in eliminating price controls and subsidies. The GoG is expected to fully liberalize crude oil imports and cede control of petroleum prices after December 2004.

Ghana has enjoyed significant reductions in hard currency debt payments since reaching HIPC decision point in 2002. Private property rights are protected by law, though disputes over land ownership are common. Judicial tribunals, long a source of abuse, have been abolished, and High Courts in major cities are now automated to expedite review of major commercial cases as well as of high-profile corruption cases. Encouraging foreign investment is a central part of economic policy. Ghana has received nearly USD 250 million in direct foreign investment since the beginning of the Kufuor Administration in January 2001.

Standard and Poor's issued Ghana a B plus/B sovereign debt rating on September 5, 2003 and Fitch Rating Agency issued a B rating with positive outlook. Although the GoG does not benefit directly from this rating, the private sector already has due to easier access to credit and foreign exchange and increased foreign and domestic investment flows into Ghana. The rating also serves as a useful benchmark to measure economic progress in Ghana.

The GoG passed five of six proposed IPR bills in December of 2003. The last -a copyright bill- is still pending in Parliament.

The World Bank announced in a March 2004 report that Ghana's Time to Start a Business had decreased by 34 percent since 2003.

B. Major Issues/Problems Identified

The GOG faces serious challenges in continuing structural reforms. It has privatized 300 of 350 parastatal companies,

but the GoG has delayed divestitures of Ghana Commercial Bank and Ghana Water Company Limited.

In anticipation of the upcoming presidential election the GOG has not raised fuel prices to cost recovery levels. This is causing parastatal losses of USD10 million per month.

Domestic credit and subsidies to public utilities continue to present quasi-fiscal problems. The GoG has yet to resolve the management problems and inefficiencies in the state owned utility companies. It has accumulated large arrearages in the energy sector, which pose a potential threat to macroeconomic stability.

The GoG has cleared the CMS Energy dispute by paying arrears and has shown a good faith effort to make scheduled payments. Western Wireless' Ghanaian subsidiary Westel was able to meet directly with President Kufuor and has agreed to pay a USD 25 million fine to settle their dispute with the GoG. The matter has been complicated by the application of a retroactive spectrum fee of USD 26.5 million. According to the GoG the fee is being applied equally to all wireless operators in the country. Post has no indication the fee has not been applied evenhandedly. Westel contends that their license was paid as part of their original agreement with the GoG. Westel has stated their intention to file for international arbitration to settle the matter, but holds hope that an agreement can still be reached through direct negotiation.

The GoG decided to settle its disputes with U.S. firm Kaiser Aluminum by purchasing Kaiser's large Valco facility. Unfortunately the sale has yet to close and the GoG and Kaiser are engaged in parallel processes of international arbitration and direct negotiation to resolve the sale.

US firms have expressed concerns regarding the lack of transparency in government procurement, although there have been no formal complaints to the GoG. The concerns are mainly related to 1) undefined timeframes for rendering decisions, 2) unclear bidding requirements, and 3) allegations of favoritism.

II. Political Reform/Rule of Law/Anti-Corruption

1A. Major Strengths Identified

The Kufuor Administration has pledged commitment to the rule of law and appears to be living up to that ideal. The President has established an Office of Accountability to oversee the performance of senior government functionaries. Several corruption prosecutions are underway and a former minister is now in jail. Cabinet Ministers recently approved &Whistle Blower8 legislation to protect citizens who report corruption.

The GoG worked to reduce the backlog of its courts by automating High Courts authorized to hear cases involving banks, investors, human rights, electoral petitions, government revenue, specified commercial and industrial cases and certain criminal cases. The GoG also drafted legislation to promote Alternative Dispute Resolution (ADR). Presidential elections of 2000 were peaceful, free, and transparent. Democracy continues to be vibrant, with the two major parties vigorously contesting each other and the press enjoying unprecedented freedom.

1B. Major Issues/Problems Identified

The integrity of the legal system is compromised by a severe lack of financial, human, and material resources.

There are serious problems with large numbers of remand prisoners detained for three to ten or more years before going to trial.

There continue to be credible reports that members of the police beat suspects in custody, and that police and some elements of the military arbitrarily arrest and detain persons. Police corruption is a problem.

Prolonged pretrial detention remains a problem. Juvenile detainees are housed in separate facilities. Inadequate resources and a system vulnerable to political and economic influence compromises the integrity of the overburdened judicial system.

At times the Government restricts freedom of assembly, and police forcibly disperse some demonstrations.

Some observers question the GoG's commitment to an evenhanded application of the rule of law given the energetic scrutiny and investigation of former government officials on corruption charges while comparatively few from Kufuor's party are targeted.

III. Poverty Reduction

1A. Major Strengths Identified

Ghana has a poverty reduction plan. Key to this is increasing growth rates in agriculture through exports of processed goods. Ghana plans to take advantage of AGOA provisions to boost exports of agricultural products to the U.S.

Ghana has aggressively moved to take full advantage of the apparel benefit. Ghana received its textile visa in Mid-2002, and, received its Category 9 certification for hand loomed rugs, scarves, placemats and tablecloths, effective September 15, 2003. Ghana-based textile firms already have contracts

with U.S. distributors and are seeking more. Ghana reached its HIPC completion point in July 2004, which will result in approximately USD 3.5 billion of debt forgiveness from official creditors.

1B. Major Issues/Problems Identified
None

IV. Labor/Child Labor/Human Rights

1A. Major Strengths Identified

Despite some problems in its human rights record, the GoG continues to improve its human rights practices. Police received training in tactics of non-lethal force and human rights protection. The GoG has increased its efforts to suppress the trafficking in persons through cooperation with NGOs and international organizations to identify and return internally trafficked children. Ghana is a signatory to ILO convention 182 on the worst forms of child labor. The GoG has made combating child labor and trafficking a high priority. Several Ministries worked closely with the ILO to conduct studies on child labor exploitation and regional trafficking, including the Ghana Statistical Service, which published an ILO-financed survey of child labor in Ghana in March 2003. NGOs, local and national government participate in West Africa Cocoa/Agriculture Project (WACAP), an international, public-private effort to eliminate the worst forms of child labor from the cocoa industry. In conjunction with ILO/IPEC, IOM has successfully freed hundreds of children as young as four years old from forced, hazardous labor in the Lake Volta fishing industry. Ghana is working closely with the U.S. and other donor countries to assess the extent of the problem of international trafficking in women. The GoG and local NGOs are continuing on an extensive public education campaign begun last year against domestic violence, contributing to public debate about draft domestic violence legislation. The GoG also strengthened the Women and Juvenile Unit of the Police to combat crimes against women and children and the courts increasingly gave longer sentences for those crimes. Labor unions enjoy substantial legal protections in Ghana, and many operate in both the public and private sectors. Various affiliates of the Trade Union Congress are actively involved in organizing workers in the informal sector around issues of health and safety, hours of work, annual leave, and medical care. In July 2003, the National Labor Commission, an independent body that arbitrates labor disputes, was established to bring Ghana's labor laws into conformity with ILO Convention. In October a new union, the Union of Industry, Commerce and Financial Workers (UNICOF) was incorporated, representing the interests of workers at Ghana Commercial Bank, Standard and Chartered Bank, Ghana National Procurement Agency, Ghana Airways Pilots Association, and Agricultural Development Bank, among others.

1B. Major Issues/Problems Identified

There were reports that the GOG was intolerant of opposing views and reacted by bringing dissenters in for questioning by the Bureau of National Investigations or the National Security Agency. Children as young as four years old are forced into dangerous work in the fishing industry via arrangements in which their parents get around \$180 per year for their service. Aided by international organizations, the GoG is working to eliminate this practice, and the incidence of this practice is declining, but the GoG still has not passed an anti-trafficking law despite drafting a bill for well over two years. Police use of excessive force resulted in several extra-judicial killings as well as injuries. Corruption amongst police, who set up barriers to bribe motorists, and judicial officials, who accept bribes in exchange for expedited or postponed cases or losing records, remained a serious problem. Child labor was a problem in the informal sector, and forced child labor and trafficking in persons were problems. Trokosi, a traditional form of ritual servitude, was practiced on a limited scale in one region of the country.

1V. International Terrorism/U.S. National Security

1A. Major Strengths Identified

The GoG has been explicit in its sympathy with the U.S. over September 11, and has since ratified or acceded to all international anti-terrorism conventions.

1B. Major Issues/Problems Identified
None
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